THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

-

-

WRIT PETITION No.10773 OF 2006

DATE: 30-05-2006

Between:

M/s.A.B.C.Engineering Works . . .Petitioner

and

The CTO, Vijayawada and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION No.10773 OF 2006

O R D E R: (per LNR, J)

Aggrieved by an order of reassessment passed by the first respondent, the petitioner preferred an appeal before the second respondent. The appeal was allowed and the matter was remanded to the first respondent for fresh consideration. The order passed by the second respondent was revised by the third respondent and he upheld the order of reassessment passed by the first respondent. The petitioner preferred an appeal before the Sales Tax Appellate Tribunal against the order of the third respondent. It has also filed an application for stay before the Tribunal. The grievance of the petitioner is that even while the appeal is pending, the first respondent is taking steps to enforce the order of reassessment and it seeks appropriate directions in this regard.

Heard the learned counsel for the petitioner and the learned special Government Pleader for Commercial Taxes.

The subject matter of the appeal before the Sales Tax Appellate Tribunal is the order passed by the third respondent through which he has set aside the order of the second respondent in exercise of appellate power. That being the case, the interests of the petitioner need to be protected during pendency of the appeal before the Tribunal. The petitioner did have the advantage of an order of the second respondent in which the order of reassessment was set aside. When the entire subject matter is subjudiced, the petitioner cannot be mulcted with the liability, particularly, when the application for stay is pending.

Hence, the writ petition is disposed of directing that till the Hyderabad Bench of the Sales Tax Appellate Tribunal disposes of the application for stay filed by the petitioner in the appeal preferred by it, the first respondent shall not enforce the order of reassessment. In view of the prevailing uncertainty as to the functioning of the Visakhapatnam Bench of the Tribunal, the petitioner shall make available requisite sets of papers to the Hyderabad Bench of the Tribunal within two weeks from today. There shall be no order as to costs.

_____

(L.NARASIMHA REDDY, J)

30th MAY, 2006.

_____

(D.APPA RAO, J)

kvni/vrn